

REVENUE DEPARTMENT
GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI,
5, SHAM NATH MARG, DELHI-110054.
PHONE : 23965184

Dated: 16/12/2014

1)/Regn.Br./Div.Com/ (HQ)/2014/ 6492

To

The Special Commissioner
Government of NCT of Delhi,
Industries Department,
Udyog Sadan, 419 FIR, Patparganj,
Delhi- 110092.

Sub: - **Make in India Campaign.**

Sir,

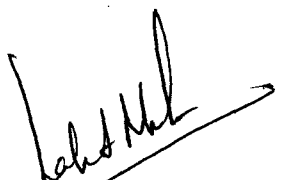
Kindly refer to your letter no. F.2 (7)/India Campaign/Coordn/2014/ dated 19/09/2014 on the subject cited above. Please find enclosed herewith the requisite information i.e. FAQ's pertaining to this department regarding Registration of Documents under the Registration Act, 1908 for your kind information and necessary action.


(Lalit Mohan)

Nodal officer/ S.D.M.-II (HQ)

Copy to:-

1. The Secretary, Government of India, Department of Industrial Policy and promotion, Ministry of Commerce and Industry, Udyog Bhawan, New Delhi- 110107.
2. System Analyst (Revenue), 5, Shamnath Marg, Delhi along with the copies of FAQ's with the request to kindly sent the soft copy for the same at md@dsiidc.org and further to upload the same on the departmental website.
3. P.A. to Principal Secretary (Revenue)/ Divisional Commissioner, Delhi.
4. Guard File.


(Lalit Mohan)

Nodal officer/ S.D.M.-II (HQ)

FREQUENTLY ASKED QUESTIONS GOVERNING **REGISTRATION OF DOCUMENT**

Q. . Why registration of an immoveable property is necessary ?

It provides a method of public registration of documents so as to give information to public at large regarding status of legal rights and obligation respecting an immoveable property and also to prevent fraud.

Q. Which documents require to be compulsorily registered ?

Section 17 of the Registration Act, 1908 lays down different categories of documents for which registration is compulsory. The documents relating to the following transactions of immovable properties are required to be compulsorily registered;

a) Instruments of gift of immovable property

b) Lease of immovable property from year to year or for any term exceeding one year or reserving a yearly rent.

c) Instruments which create or extinguish any right or title to or in an immovable property of a value of more than one hundred rupees.

Under section 2(6) of the Registration Act, 1908 the term " Immoveable property" includes: "Land, buildings, hereditary allowances, rights to ways, lights, fisheries or any other benefit to arise out of land, and things attached to the earth, or permanently fastened to any thing which is attached to the earth, but not standing timber, growing crops nor grass."

- Q. Which is the place of Registration of a document affecting immoveable property ?**

Documents affecting rights / obligation respecting any immoveable property including conveyance, may be presented for registration in the Office of Sub-Registrar in whose jurisdiction the part or whole of the immoveable property is situated (section 28 of Registration Act 1908).

- Q. Appointment management system of the department for the purpose of registration of document:**

For registration of documents in e- SR, a person has to take prior appointment by login in the Revenue Department website.
<http://revenue.delhi.gov.in>

No person shall be refused to present the document when appointment has been taken online and in the absence of online appointment no person should be entertained at the e-SR offices.

- Q. Parameters respecting presentation of document :**

- (a) Original photographs of the parties are pasted not only on the original document but also on the second copy of the instrument meant for the record purposes by the office of Sub-Registrar.
- (b) Sub-Registrar has the jurisdiction to register the instrument,
- (c) Interlineations, alteration, blank, erasure etc. if any appearing in the instrument is duly attested by the parties or party executing the document.

- (d) If the subject matter of the instrument is immoveable property, such property has been properly identified in the instrument and if necessary the site plan is annexed to identify the property.
- (e) Form-A duly filed is signed and annexed with the instrument.
- (f) Identification documents of the executants and witnesses are annexed with the instrument .

Q. Mode of identification of parties through AADHAR number :

AADHAR Number / Enrolment Slip may be demanded to ensure identification of the parties. In case a person has no AADHAR Card supplied to him even though having enrolment slip, he is entitled to avail the services. Even in those cases where a person does not possess enrolment slip, having not so far applied for AADHAR Card, he be persuaded to apply immediately at the spot at the Centre and may be directed to obtain registration slip to enable him to avail the services including the registration of any document.

Q. Deficiency memo in case of discrepancy in the instrument :

If there is any discrepancy in the document presented, the Sub-Registrar is entitled to issue deficiency memo immediately on the same day and at the spot to the parties concerned by a speaking order explaining clearly the deficiency.

Q. Extent of enquiry as regard title :

Under the Indian Registration Act no power has been conferred upon the registering authority to examine and enquire into the title of the property. The Sub-Registrar is not entitled to probe-in to the title as mentioned in the instrument in as much as it is for the parties to examine, ensure and

verify the true character and title of the property which is the subject matter of the instrument. The Sub-Registrar is to ensure only that the executant admit the execution of the instrument and if the subject matter of the instrument is immovable property, such property has been properly identified in the instrument and if necessary the site plan is appended or annexed separately to identify the immovable property.

Q. What should be the language of the document ?

The language of a document presented for registration should be in a language commonly used in the district existing in the State. Under section 19 of the Act, the Registering Officer is empowered to refuse to register a document if it is presented for registration in a language which is not commonly used in the district unless the document is accompanied by a true translation into a language commonly used in the district and also by a true copy.

Q. What are those documents, of which registration is optional ?

Section 18 of the Act lays down the instruments of which registration is optional. Some of these instruments are listed as under :-

- a) Instruments (other than instruments of gifts and wills) relating to the transfer of an immovable property, the value of which is less than one hundred rupees.
- b) Instruments acknowledging the receipt or payment of any consideration.
- c) Lease of an immovable property for a term not exceeding one year.
- d) Instruments transferring any decree or order of a court where the subject matter of such decree or order is an immovable property, the

value of which is less than one hundred rupees.

e) Wills.

Q. What is the consequence of non-registration of a document which is compulsorily registrable ?

According to Section 49(c) of the Act, if a document of which registration is compulsory under Section 17 of Registration Act, has not been registered, it cannot be produced as an evidence in a court of law.

Q. Is there any time limit to present a document for registration after it is executed ?

All documents (except WILLS) have to be registered within four months from the date of execution of the instrument. If a document is executed out of India, the period of four months will be counted from the date of its receipt in India. (Section 23). In the event of delay, the document may be presented within another four months with a penalty of maximum of ten times of the registration fees, subject to permission granted by the Registrar. A WILL can be presented at any time before any Registrar or Sub-Registrar, by the testator, or after his death by any person claiming as executor.

If a document is executed out of India, the period of 4 (four) months and the same will commence from the date it is first received in India.

Q. What is the rate of stamp duty chargeable on an instrument ?

As per section 3 of Indian Stamp Act – the instrument shall be chargeable with the duty of the amount indicated in the schedule as the proper duty which is schedule 1-A (applicable to Delhi). In case of any doubt, an application may be presented under section 31 of the Indian

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Stamp Act to the Collector of Stamp to determine the exact value of stamp duty respecting an instrument.

Q. What is the Registration Fees chargeable on an instrument ?

The State Government has been empowered to fix the fees for registration of the document. The registration fees, at present fixed for registering documents relating to property transactions as per notification No.F.1(36)/Regn Br/HQ/Div. Com./2010/353 read with notification of even number dated 09/06/2011 referred table given below:-

For registration of Documents

Description	Fee Leviable
1. In book 1, the register of document such as conveyance deed/sale deed, gif deed, partion deed etc. relating to immovable property: (a) For all compulsory registered documents (other than leases of immovable property) (b) If the value or consideration be not at all expressed. (c) For lease of immovable property	1 percent of the consideration amount set forth in the instrument or value as per circle rate whichever is higher. Rs.1000/- per each instrument. Rs.1000/- per each instrument.
2. In Book 3 i.e Register of will and Authority to adopt	Rs.500/- for each instrument

3. In Book IV i.e. Miscellaneous registration of all other document (a) GPA with consideration	Rs. 1000/- per each instrument. 1 percent of the consideration amount set forth in the instrument or value as per circle rate whichever is higher.
4. For inspection or searches for or inspection of per document per year u/s 57 of Registration Act, 1908	Rs.100/- .
5. For making or granting copies of reasons for entries or of documents before or after registration u/s 57 of Registration Act, 1908	Rs.10/- per page.

Q. From where e-stamp paper can be obtained ?

The e-stamp paper can be obtained from Authorised Collection Centres as notified by Stock Holding Corporation of India Limited (SHCIL) on their website. This can be done by filling a prescribed application form.

Q. Remedy against order of refusal in registering a document ?

The applicant may prefer appeal against the refusal order made by Sub-Registrar and such appeal shall lie to the Registrar / Deputy Commissioner within 30 days of the date of refusal order.

- Q. What is the procedure for inspection of records / books in the Office of Sub-Registrar ?**

The applicant who desires to inspect the records of the Sub-Registrar Office shall deposit a sum of Rs.100/- for each year and shall be allowed inspection from 15:00 to 17:00 hours on all working days. To note down the contents of records of any file use of pencil only may be permitted and inspection shall be allowed only in the presence of officials of office of Sub-Registrar.

- Q. Whether instrument can be presented by any person other than the owner / title holder of the property ?**

The document may be executed by the owner of the property himself or through authorized person. If the document is stated to have been executed by a person who is not present, the Registering Authority is competent to examine and ensure whether the person appearing on his behalf and present, has duly authenticated attorney as per the corresponding specific provision of the Registration Act. As the attorney is valid only till the life time of the executant, the Sub-Registrar may, if the transaction is being effected through attorney holder, reasonably satisfy himself that the executants of the power of attorney is still alive.

- Q. Is there any time to register a 'will'?**

There is no such time limit. It can be registered at any time after its execution.

- Q. Can a 'will' be cancelled?**

The testator can cancel his will at any time during his lifetime.

- Q. Is a certified copy of will available to everybody?**

A certified copy of a registered will is available to the testator only during his lifetime.

Q. How to keep contents of a will confidential?

Will can be deposited in a sealed cover in office of the District Registrar. A fee of Rs.500/- prescribed to deposit will in a sealed cover. Depositor or authorized persons (executor) can withdraw the sealed cover containing a will, if desires to do so.

Q. Validity of the Power of Attorney

The Power of Attorney is valid till the Executant is alive or until it is revoked/cancelled by the Executant by executing and registering instrument cancelling his Power of Attorney.

Q. Can Sub-Registrar register General Power of Attorney and Special Power of Attorney in respect of properties situated outside their jurisdiction ?

A GPA or SPA (through which an attorney/agent is authorized to represent the principal for registration of documents of the principal at the registration office) shall be valid if the same has been executed before and authenticated by the Registrar or Sub- Registrar within whose district or sub- district the principal resides.

Q. Can GPAs and SPAs be executed and registered in favour of persons who are not in blood relation with principal / executant ?

In this respect, the circular of the Revenue Department vide No.1(92) Regn.Br./Div.Com./HQ/2013/815 dated 22-07-2013 is clear and is self explanatory. There is no provision or rule which prevents a registered property owner from executing general power of attorney / special power of attorney in favour of their spouse, son, daughter,

brother, sister or any other relative or person of his trust. There is no compulsion on the principal / executant to execute power of attorney only in blood relation.

Q. Who can execute General Power of Attorney and Special Power of Attorney ?

A registered property owner holding registered and valid title deed of an immoveable property like sale deed, gift deed, partition deed etc., may execute general and / or special power of attorney.

Q. How the instruments including GPA and SPA which are executed out of India are adjudicated and dealt when comes in India ?

Section 33© of the Indian Registration Act, 1908 provides that the GPA/SPA executed by a principal, who at the time of execution thereof does not reside in India, needs to be authenticated by a Notary Public, any court, Judge, Magistrate, Indian Consul or Vice-Consul, or representative of the Central Government.

Section 18 of Indian Stamp Act, 1899 lays that instrument chargeable with duty executed only out of India and not being a bill of exchange or promissory note, may be stamped within three months after it has been first received in India. The Stamp Duty of Rs.50/- (Stamp duty as prevalent in GNCT Delhi) shall be charged on power of Attorney which has been executed outside India and the same shall be presented in the office of the Collector of Stamps, in case of delay, the Collector of Stamps, may proceed under section 40 of Indian Stamp Act, and Collect the requisite stamp duty and penalty, if any.

- Q. Can property be legally and lawfully transferred through General and Special Power of Attorney and can these instruments be used for transfer of the property ?**

The immoveable property can legally and lawfully be transferred only by a registered conveyance deed such as sale, gift etc. Execution of mere agreement to sell, general power of attorney / special power of attorney / WILL etc. do not convey of transfer of any title and thus are not valid modes of transfer of immoveable property.

- Q. Is there any restriction on registration of agreement to sell ?**

It is clarified that the Supreme Court in Suraj Lamp & Industries Ltd. Vs. State of Haryana has nowhere questioned the power / jurisdiction / duties of the Sub-Registrar in respect of registration of document whether in the past or in future. Even in the above said judgment the Supreme Court reiterated that it is valid to transact through power of attorney. In case of lease hold properties, the Hon'ble Court clearly held that such type of property can be transferred through assignment of lease which is also compulsory registerable document under section 17 of the Indian Registration Act chargeable to duty as per the schedule-1A of the Stamp Act. Similarly, agreement to sell in respect of immoveable property is covered under section 17A of the Indian Registration Act and is a valid document to be registered if so desired by the parties and as such all these documents cannot be refused by Sub-Registrar. Even otherwise the Sub-Registrar is bound to register any document presented before him whether the document is compulsory registerable under section 17 or 17A of the Indian Registration Act or optional under section 18 of the said Act.

Q. Whether a collaboration / developer agreement is a compulsory registrable document ?

In case of developer or collaboration agreement, the owner transfer his property for development / construction to the builder against consideration hence, such documents are compulsory registrable under section 17A of the Registration Act chargeable to stamp duty under article 23A of the schedule-1A of Indian Stamp Act. The same principle applies in case of builder buyer agreement also in which possession is handed over against consideration and as such the Sub-Registrar is bound to register such document when presented.

Q. Who can present the document for registration ?

Section 32 of the Registration Act, 1908 deals with the provisions relating to the presenting of documents for registration by a person. Subject to certain exceptions, every document which is to be registered under the provisions of the Act may be presented at the proper registration office by: (a) person executing the document, or (b) the representative or the agent of such a person duly authorised in manner as is stated in Section 33 of the Registration Act, 1908.

Q. What is the remedy, if document is not registered within a prescribed period of four months ?

As per the provisions of Section 25 of the Indian Registration Act, 1908 if a document is not presented for registration within the prescribed time period of four months, and if in such a case the delay in presentation of the document does not exceed a subsequent period of four months, then the parties to the agreement can apply to the Registrar, who may direct that on payment of a fine not exceeding ten times the proper registration fees, such a document should be admitted for registration.

- Q. Does a Deed of Rectification rectifying the mistakes in the names of the parties, the figures, the description etc. In the duly registered main document require registration ?**

If the main document/agreement is registered, then in that event it is always necessary to register the Deed of Rectification too.

- Q. How can I get refund of stamp duty against the stamp paper/e-stamp paper in case of** (i) unused stamp paper/e-stamp papers & (ii) used stamp paper/e-stamp paper where the executants (seller/purchaser) has refused to execute and the registration of document is denied & Refusal Order passed by Sub Registrar.

In case of unused stamp/e-stamp paper, the applicant may apply for refund within six month from the date of purchase of stamp paper. (ii) In case of used stamp paper the applicant may apply within two month from the date of purchase/refusal order passed by the Sub-Registrar.

Procedure for refund:- The applicant may apply for refund to the concerned/area collector against the stamp paper of an amount up to Rs.1,00,000/- and above the Rs.1,00 000/- may apply to Collector of Stamp/SDM-II(HQ), 5, Sham Nath Marg, Delhi with the following document:-

- (a) An application for refund with original stamp paper
- (b) pre receipt voucher,
- (c) I.D. Proof,
- (d) Affidavit regarding reason of refund
- (e) NOC where applicable.

- Q. Whether Registration fee is refundable in case document is not registered and refusal order is passed.**

Yes. The applicant may apply for refund of registration fee with the concerned/area Deputy Commissioner where the Sub Registrar has denied the registration of document and passed the refusal order.